U.S. Army Corps of Engineers

NATIONWIDE GENERAL PERMITS (NWPs)

- Authorization on a nationwide basis for commonly recurring activities that have minimal cumulative adverse impacts to the environment.

- Total of 50 Nationwide Permits, activity specific.

- Some require “Notification” (written application) to the District Commander (DC) for verification that the work meets the terms and

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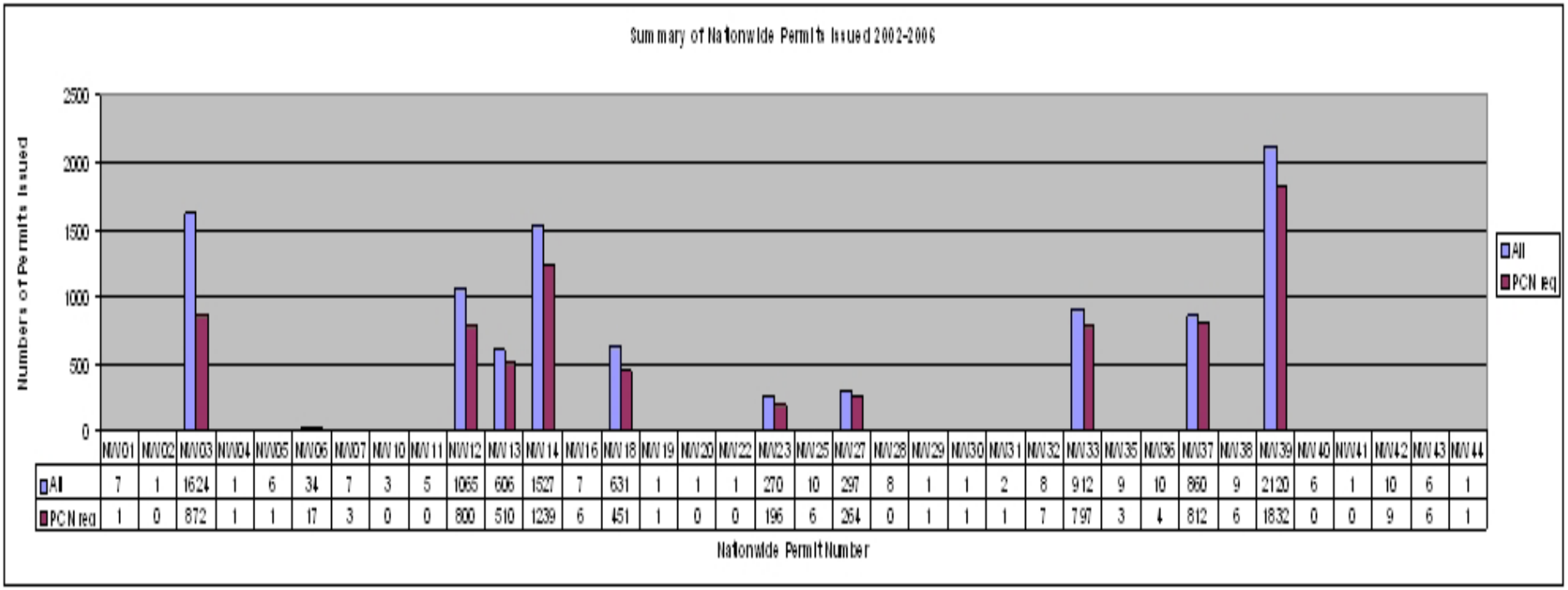
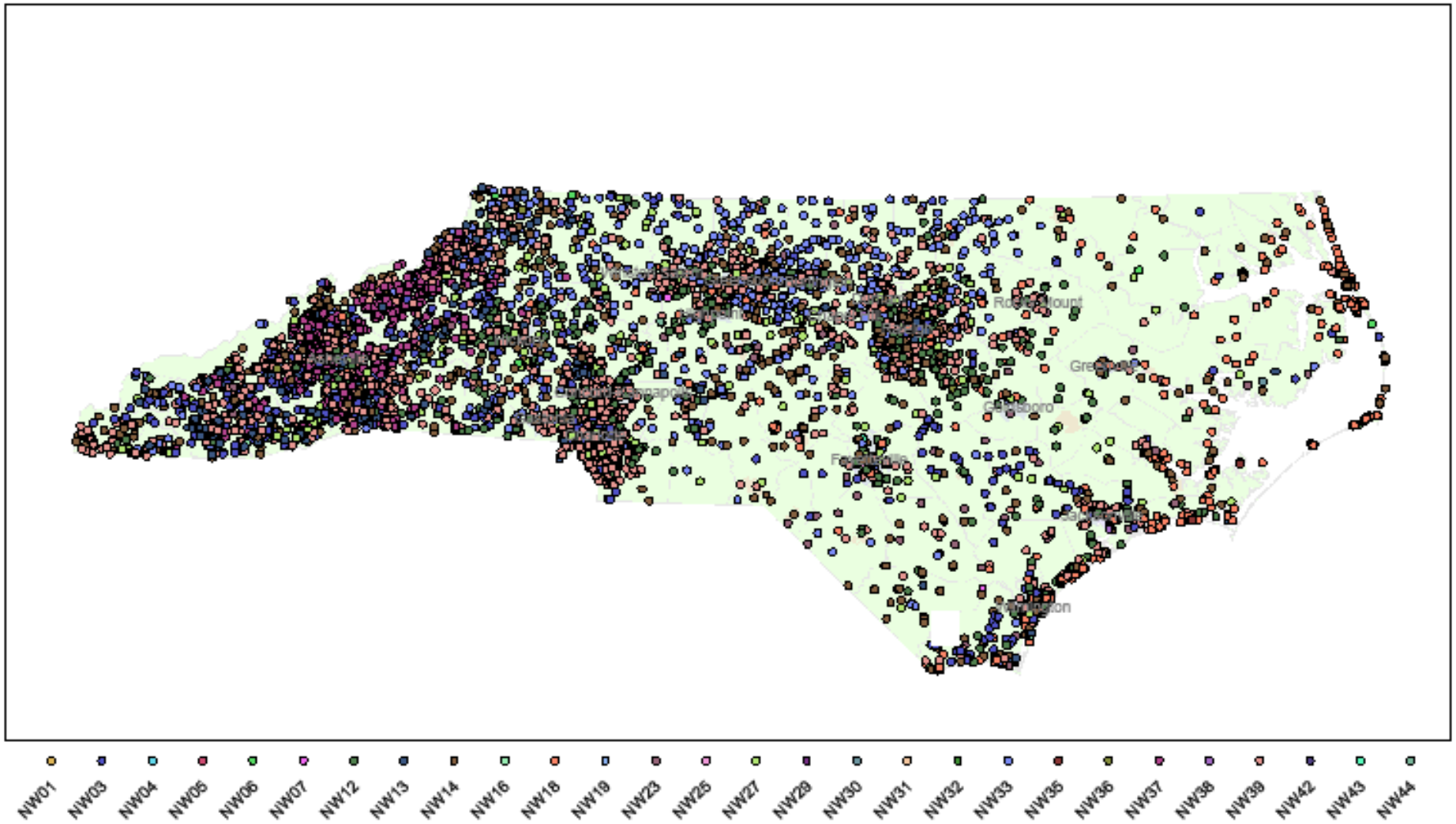
Background – Historical Volume of NWPs with PCN Requirements



	NW01	NW02	NW03	NW04	NW05	NW06	NW07	NW10	NW11	NW12	NW13	NW14	NW16	NW18	NW19	NW20	NW22	NW23	NW25	NW27	NW28	NW29	NW30	NW31	NW32	NW33	NW35	NW36	NW37	NW38	NW39	NW40	NW41	NW42	NW43	NW44
All	7	1	1624	1	6	34	7	3	5	1065	606	1527	7	631	1	1	1	270	10	297	8	1	1	2	8	912	9	10	860	9	2120	6	1	10	6	1
PCN req	1	0	872	1	1	17	3	0	0	800	510	1239	6	451	1	0	0	195	6	264	0	1	1	1	7	797	3	4	812	6	1832	0	0	9	6	1

Nationwide Permits Requiring Pre-Construction Notification (PCN)
SAW Permits Issued 2002-2006

7815 permits of 10,157 total permits issued required pre-construction notification.



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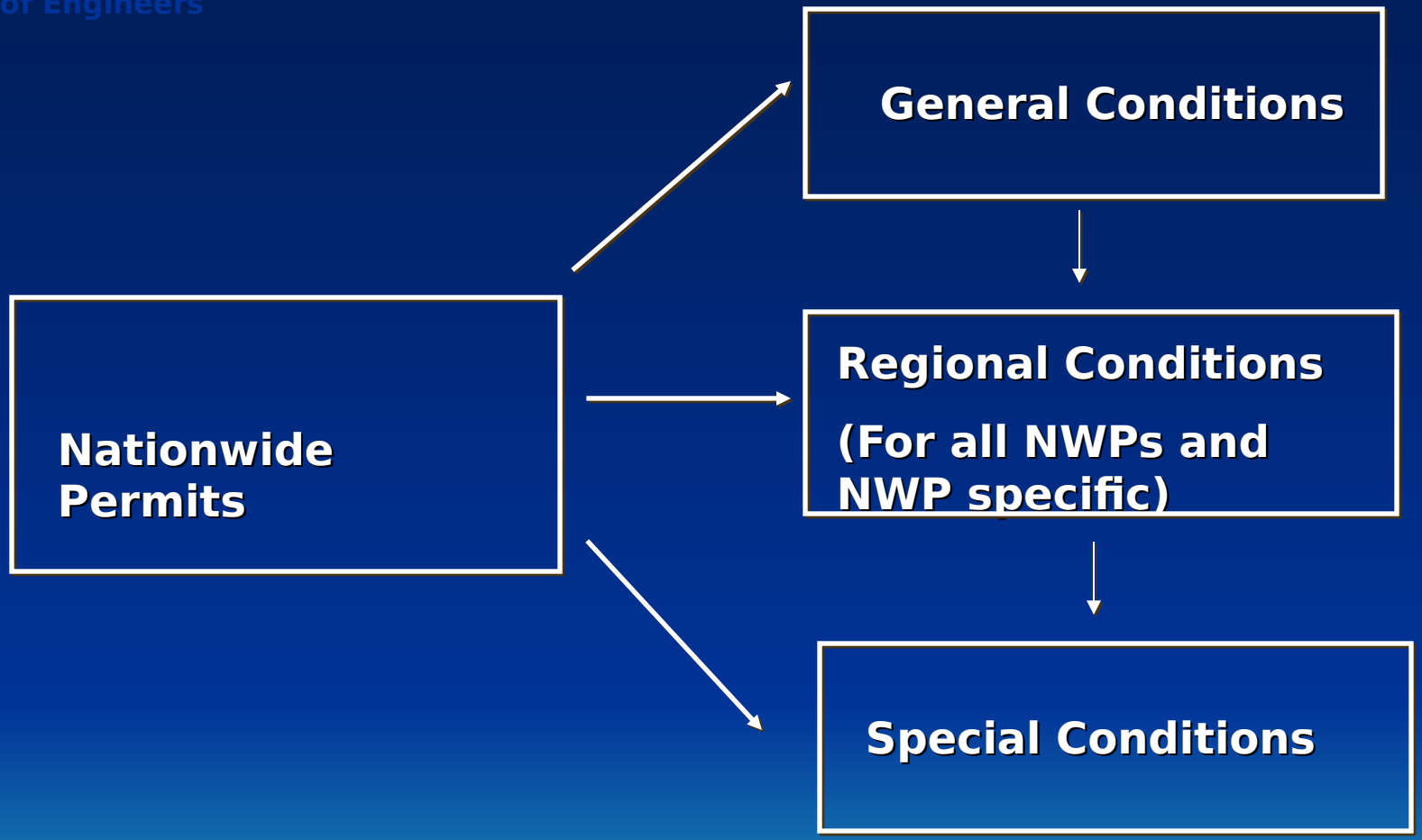

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Applicable NWPs

- NWP 3: Maintenance of Existing Structures
- NWP 12: Utility Line Activities
- NWP 13: Bank Stabilization
- NWP 14: Linear Transportation Crossings
- NWP 18: Minor Discharges
- NWP 27: Aquatic Habitat Restoration
- NWP 29: Residential Developments
- NWP 39: Commercial Developments
- NWP 43: Stormwater Management Facilities

U.S. Army Corps of Engineers

Nationwide Permit 3 Maintenance (10/404)

- **Repair, rehabilitation or replacement of previously authorized, currently serviceable structures or fills**
  - **Authorizes only minor deviations for maintenance**
  - **No notification required**
  - **Does not authorize maintenance dredging for the primary purpose of navigation or beach restoration; does not authorize new stream channelization or stream relocation projects**

U.S. Army Corps of Engineers

Nationwide Permit 3 Maintenance (10/404)

- **Repair, rehabilitation, or replacement of currently serviceable structures or fills.**
  - **Authorizes only minor deviations for maintenance**
  - **PCN not required**
  - **Does not authorize stream channelization of stream relocations**

U.S. Army Corps of Engineers

Nationwide Permit 3 Maintenance (10/404)

- **Discharges associated with removal of accumulated sediments and debris in the vicinity of existing structures, including intake and outfall structures and associated canals.**
  - **200 feet from structure; minimum necessary to restore capacity intake or outfall or associated canal**
  - **Requires PCN and delineation**
  - **Also authorizes placement of rip rap to protect the structure**

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Nationwide Permit 3 Maintenance (10/404)

- Temporary structures, fills, and work necessary to conduct maintenance activity
  - No PCN or delineation required
  - Added temporary structures, fill and work associated with the maintenance activity
  - Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations

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Nationwide Permit 12 Utility Line Activities (10/404)

- The construction, maintenance, or repair of utility lines, including intake and outfall structures

  - PCN required for
    - discharges that result in loss of greater than 1/10 acre to all utility line activities, not just substations; added temporary structures, fills, and work associated with the utility line activity
    - A Section 10 permit is required
    - Mechanized land clearing in a forested wetland for the right-of-way.
    - utility line exceeds 500 linear feet in waters of the U.S. or line runs parallel to a stream bed within a jurisdictional area-delineation required

    - Wetland delineation required if PCN required

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Nationwide Permit 12 Utility Lines and Foundations for Overhead Utility Line Towers, Poles and Anchors (10/404)

Foundations for Overhead Utility Line Towers, Poles, and Anchors

- Delineation required if PCN required
- Separate footings for each tower leg should be used where feasible

Utility Line Substation

PCN required if utility line exceeds 500 linear feet in waters of the U.S. or line runs parallel to a stream bed within a jurisdictional area-delineation required

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Nationwide Permit 12 Utility Line Substations and Access Roads (10/404)

- **Access Roads**
  - Delineation and PCN required if above-grade permanent access roads exceeding 500 feet or permanent access roads constructed with impervious materials
  - Access roads must be constructed to minimize adverse effects to waters of the U.S.
  - Utility line substations and access roads must be located in non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters

U.S. Army Corps of Engineers

Regional Condition 4

Additional Regional Conditions Applicable to Specific Nationwide Permits

- 4.1. Directional Drilling or Boring
  - Construction through jurisdictional waters/wetlands will be accomplished utilizing directional drilling/boring methods to the maximum extent practicable

- 4.2. Temporary Discharge and Fill
  - Temporary material discharged into jurisdictional areas must be for the absolute minimum necessary to accomplish the work; needs to be stabilized and non-erodible

- 4.3. Work Corridor Restrictions
  - Work area authorized by this permit, including temporary and permanent fills, will be minimized to the greatest extent practicable. Corridors greater than forty (40) feet in width will need to be justified

U.S. Army Corps of Engineers

Regional Condition 4

Additional Regional Conditions Applicable to Specific Nationwide Permits

- 4.4. Depth Requirement in Federal Channels
  - In areas where a sub-aqueous utility line is to cross a Federally maintained channel, the line will be buried at least six (6) feet below the depth of the authorized channel.
  - If located outside a Federally maintained channel, the line must be installed a minimum depth of two (2) feet below the substrate when such lines might interfere with navigation
- 4.5. Clearance Requirements for Non-electric Aerial Lines
  - Minimum clearance for aerial communication lines, or any lines not transmitting power, will be ten (10) feet above the clearance of nearby

U.S. Army Corps of Engineers

Regional Condition 4

Additional Regional Conditions Applicable to Specific Nationwide Permits

- 4.7. Restoration of Wetland Areas Using Native Vegetation
  - A plan to restore and re-vegetate areas cleared for construction must be submitted with the required PCN. Cleared wetland areas shall be re-vegetated to the maximum extent practicable with native species of canopy, shrub, and herbaceous species. Fescue grass shall not be used.

- 4.8. Compensatory Mitigation for Permanently Maintained Corridors
  - Any permanently maintained corridor along the utility ROW shall be considered a permanent impact and a compensatory mitigation plan will be required for all such impacts associated with the requested activity

- 4.9. Riprap Restriction
  - Stream bed stabilization with riprap should be avoided

U.S. Army Corps of Engineers

Nationwide Permit 13

U.S. Army Corps of Engineers

Nationwide Permit 13 Bank Stabilization (10/404)

- Bank stabilization activities necessary for erosion prevention provided:
  - Should be erosion problem, not aesthetic problem
  - Work can not impair surface water flow

  - PCN Required:
    - Greater than 500 linear feet of stabilization
    - Discharge into special aquatic site (wetland or riffle/pool)
    - 1 cubic yard per running foot below the plane of ordinary high water, unless waived by the DC

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Nationwide Permit 14 Linear Transportation Projects

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Nationwide Permit 14 Linear Transportation Projects (10/404)

PCN required

> 1/10 of an acre and/or the discharge is in a special aquatic site

- 150 linear feet of perennial/intermittent or greater (RC 3.3)

- Limits-1/2 acre in non-tidal waters; 1/3 acre in tidal waters
- Delineation mandatory if PCN required
- Stream channel modifications must be minimum necessary to construct or protect the linear transportation project
- Authorizes temporary structures, fills, and work necessary to construct the linear transportation project
- Temporary fills must be removed in their entirety and the affected areas returned to preconstruction elevations
- DOES NOT authorize storage buildings, parking lots, train stations, aircraft hangars, or other non-linear transportation features

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Regional Condition 4

Additional Regional Conditions Applicable to Specific Nationwide Permits

- **4.1. Natural Channel Design**
  - **Applicants shall employ natural channel design to the maximum extent practicable. If not practicable, stream relocations shall be considered a permanent impact and the applicant shall provide a mitigation plan to compensate for the loss of aquatic function associated with the proposed activity**

- **4.2. Maintenance of Bank-full Flows**
  - **Bank-full flows (or less) shall be accommodated through maintenance of the existing bank-full channel cross sectional area. Additional culverts at such crossings shall be**

U.S. Army Corps of Engineers

Regional Condition 4

Additional Regional Conditions Applicable to Specific Nationwide Permits

- 4.3. Maintenance of Floodplain Elevation
  - Where adjacent floodplain is available, flows exceeding bank-full should be accommodated by installing culverts at the floodplain elevation

- 4.4. Prohibition to Create Upland from Waters of the US
  - This NWP authorizes only upland to upland crossings and cannot be used in combination with NWP 18 to create upland within waters of the US, including wetlands

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Nationwide Permit 18 Minor Discharges (10/404)

- Limited to 25 cubic yards discharged below the plane of OHWM/HTL and/or 1/10 acre of waters of the U.S.

- Delineation mandatory, if PCN required, when discharges are greater than 10 cubic yards below the plane of OHWM/HTL or the discharge is into a special aquatic site

- Does not authorize discharges for stream diversions

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Nationwide Permit 27 Aquatic Habitat Restoration, Establishment, and Enhancement Activities (10/404)

- PCN required for all activities, except for those that require reporting (e.g., activities under a binding agreement between the landowner and an agency)

- DOES NOT authorize stream channelization, relocation or conversion of tidal waters, or conversion of natural wetlands or streams (except for relocation activities); notification required for reversion activities.

U.S. Army Corps of Engineers

Nationwide Permit 27 Aquatic Habitat Restoration, Establishment, and Enhancement Activities (10/404)

- Changes in 2007
  - Added shellfish seeding;
  - Requires reporting for Federal agency agreements;
  - Added state cooperating agencies;
  - Revised terminology;
  - Revised to include wetland actions documented by NRCS or USDA Technical Service Provider pursuant to NRCS Field Office Technical Guide standards;
  - Removed restriction limiting use by mitigation bank to those approved under

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Stream and Wetland Restoration

U.S. Army Corps of Engineers

Nationwide Permit 29

Residential Developments (10/404)

- Limits-1/2 acre and/or 300 linear feet of stream bed, but DC can waive for intermittent and ephemeral streams.

- Delineation and PCN required for all activities

- Applicable to non-tidal waters of the U.S., except non-tidal waters adjacent to tidal waters

- Restrictions removed on who can utilize NWP

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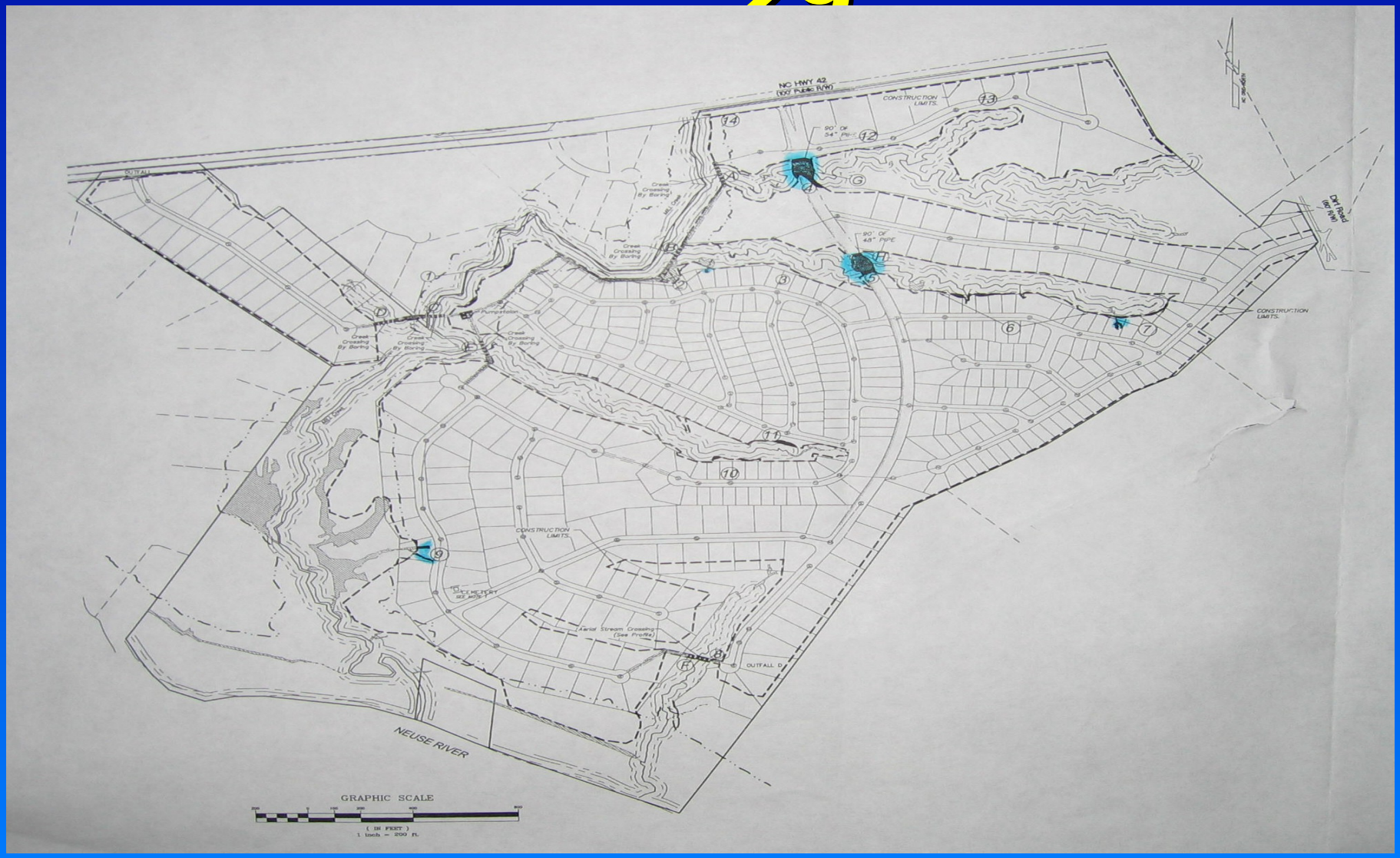
Nationwide Permit 29



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Nationwide Permit 39

Commercial and Institutional Developments (10,404)

- Limits-1/2 acre and/or 300 linear feet of stream bed, but DC can waive for intermittent and ephemeral streams.

- Delineation and PCN required for all activities.

- Applicable to non-tidal waters of the U.S., except non-tidal waters adjacent to tidal waters.

- Does not authorize construction of new golf courses, new ski areas, or oil or gas wells.

U.S. Army Corps of Engineers

Regional Condition 4

Additional Regional Conditions Applicable to Specific Nationwide Permits

- 4.1. Discharges in wetlands and in perennial streams for stormwater management facilities are prohibited under this NWP

- 4.2. Single-family recreational facilities are not authorized by this NWP. Recreational facilities that are incorporated into serving an entire residential development can be authorized by this permit

- 4.3. Discharges of dredged or fill material into waters of the US, including wetlands, within the floodway, resulting in permanent above-grade fills are not authorized by this NWP

U.S. Army Corps of Engineers

Regional Condition 4

Additional Regional Conditions Applicable to Specific Nationwide Permits

- 4.4. Discharges of dredged or fill material into waters of the US, including wetlands, within the mapped FEMA 100-year floodplain, below headwaters (i.e. > five cfs) resulting in permanent above grade fills are not authorized by this NWP

- 4.5. This NWP may not be used to authorize the discharges of dredged or fill material into waters of the US that have been identified by the State of North Carolina as:
  - Outstanding Resource Waters
  - High Quality Waters
  - Coastal Wetlands as defined by North Carolina's Coastal Area Management Act

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Nationwide Permit 43

Stormwater Management Facilities (10/404)

- Limits-1/2 acre and/or 300 linear feet of stream bed, but DC can waive for intermittent and ephemeral streams.
- Delineation and PCN required for all activities involving expansion or construction of stormwater management facilities.
- Applicable to non-tidal waters of the U.S., except non-tidal waters adjacent to tidal waters.
- Does not authorize construction of new stormwater management facilities in perennial streams.
- Maintenance does not require PCN if limited to restoring original design capacities

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Nationwide Permit 45

Repair of Upland Areas Damaged by Discrete Events (10/404)

- Restore uplands to pre-event ordinary high water mark.
- Delineation and PCN required for all activities.
- Applicable to all waters of the U.S.
- Removed 50 yard cubic limit.
- Authorizes bank stabilization to protect restored uplands.
- Clarified that upland can be restored without permit to OHWM or high tide line.
- PCN must be submitted to DC within 1 year of date of the damage and work must start or be under contract within 2 years of the date of damage.

U.S. Army Corps of Engineers

Nationwide Permit 47

Pipeline Safety Program Desinated Time-Sensitive Inspections and Re

- Unlimited impacts.
- No PCN or delineation required in all waters of the U.S.
- Permittee must participate in Pipeline Repair and Environmental Guidance System.

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Nationwide Permit
General Conditions

1) Navigation
2) Aquatic Life Movements
3) Spawning Areas
4) Migratory Bird Breeding
5) Shellfish Beds
6) Suitable Material
7) Water Supply Intakes
8) Adjacent Effects from Impoundments
9) Management of Waters Flows
10) Fills Within 100-Year Floodplains
11) Equipment
12) Soil Erosion and Sediment Controls
13) Removal of Temporary Fills
14) Proper Maintenance
15) Wild and Scenic Rivers
16) Tribal Rights
17) Endangered Species
18) Historic Properties
19) Designated Critical Resource Waters
20) Mitigation
21) Water Quality
22) Coastal Zone Management
23) Regional Case-by-Case Conditions
24) Use of Multiple Nationwide Permits
25) Transfer of Nationwide Permit Verifications
26) Compliance Certificate
27) Pre-Construction Notification
28) Single and Complete Project

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General Condition 2

Aquatic Life Movements

- If the activity involves placing a culvert in a stream, the culvert must be installed to maintain low flow conditions

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General Condition 10

Fills with

- The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

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General Condition 13

Remov

- Temporary fills must be removed in their entirety and the affected areas restored to pre-construction elevations. The affected areas must be revegetated as appropriate.

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General Condition 17

Endange

- No activity is authorized by any NWP that is likely to jeopardize continued existence of a T&E species, or which will destroy or adversely modify the critical habitat of such species.

- No activity is authorized under any NWP which “may affect” a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed

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General Condition 17

Endangered Species

- For activities that may affect Federally-listed endangered or threatened species, the notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or utilize the designated critical habitat. The permittee shall not begin work on the activity until notified by the district commander that the requirements of the ESA have been satisfied and that the activity is authorized.

- As a result of formal or informal consultation with the FWS or NMFS, the DC may add species-specific regional endangered species conditions to the NWPs.

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General Condition 18

Historic Properties

- In cases where the DC determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized , until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

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General Condition 20
Mitigation

- DC will consider the following factors:
  - Activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).
  - Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating) will be required to the extent necessary to ensure that adverse effects to the aquatic environment are minimal.
  - Compensatory mitigation at a minimum one-for-one ratio will be required for all wetlands losses that exceed 1/10 acre and require pre-construction notification, unless the DC determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project specific waiver of this requirement.

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General Condition 20
Mitigation

- DC will consider the following factors:
  - For wetland losses of 1/10 acre or less that require pre-construction notification, the district commander may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment.
  - For losses of streams or other open waters that require pre-construction notification, the district commander may require compensatory mitigation, such as stream restoration, to ensure that the activity results in minimal adverse effects on the aquatic environment.
  - Can’t be used to offset impacts to NWP permissibility.
  - Streams and other open waters typically require buffers as part of compensatory proposal.

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General Condition 24

Use of Multiple Nationwide Permits

- The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit.

  - For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

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General Condition 26
Compliance Certifications

- Each permittee who received a NWP verification from the Corps must submit a signed certification regarding the completed work and any required mitigation. The certification form must be forwarded by the Corps with the NWP verification letter and will include:

  - A statement that the authorized work was done in accordance with the NWP authorization, including any general or specific conditions:

  - A statement that any required mitigation was completed in accordance with the permit conditions; and

  - The signature of the permittee certifying the completion of the work and mitigation

U.S. Army Corps of Engineers

General Condition 27

Pre-Construction Notification

- Where the required terms of the NWP, the prospective permittee must notify the district commander by submitting a pre-construction notification (PCN) as early as possible. The DC must determine if the PCN is complete within 30 calendar days of the date of receipt and, as a general rule, will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district commander will notify the prospective permittee that the PCN is still incomplete and the PCN process will not commence until all of the requested information has been received by the DC.

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General Condition 27
Pre-Construction Notification

- The prospective permittee shall not begin the activity:
  - Until notified in writing by the DC that the activity may proceed under the NWP with any special conditions imposed by the district or division commander;
  - If 45 calendar days have passed from the DC's receipt of the complete PCN and the prospective permittee has not received written notice from the District or Division Commander. However, remember general conditions 17 and 18
  - DISCUSSION

U.S. Army Corps
of Engineers

Regional Conditions
June 2007

U.S. Army Corps of Engineers

Regional Condition 2

Waters Requiring Additional Notification

- **2.1. Western Counties that Drain to Designated Critical Habitat**

  - **Require PCN to Asheville USFWS and Corps Asheville Regulatory Field Office**

  - **Avery, Cherokee, Forsyth, Graham, Haywood, Henderson, Jackson, Macon, Mecklenburg, Mitchell, Stokes, Swain, Transylvania, Union and Yancey.**

U.S. Army Corps of Engineers

Regional Condition 3

List of Corps Regional Conditions for All NWPs

- 3.1. Limitation of Loss of Perennial Stream Bed
  - Loss or degradation may not be greater than 300 feet
  - The DC may waive the linear footage restriction on intermittent and ephemeral streams on a case-by-case basis
- 3.2. Mitigation for Loss of Stream Bed Exceeding 150 Feet
  - If loss greater than 150 feet of perennial or ephemeral/intermittent stream, applicant shall provide a compensatory mitigation plan
  - If loss greater than 150 feet, but requires a PCN, then compensatory mitigation may be required on a case-by-case basis
- 3.3. Pre-Construction Notification for Loss of

U.S. Army Corps of Engineers

Regional Condition 3

List of Corps Regional Conditions for All NWPs

- **3.5. Requirements for Using Riprap for Bank Stabilization**
  - **3.5.1. Filter cloth must be placed underneath the riprap as an additional requirement of its use in NC waters**
  - **3.5.2. The placement of riprap shall be limited to the areas depicted on submitted work plan drawings**
  - **3.5.3. The riprap material shall be clean and free from loose dirt and any pollutant except in trace quantities that would not have an adverse environmental effect**
  - **3.5.4. It shall be of a size sufficient to prevent its movement from the authorized alignment by natural forces under normal conditions**
  - **3.5.5. The riprap material shall consist of clean rock or masonry material such as, but not limited to granite, marl, or broken concrete**
  - **3.5.6. A waiver may be requested in writing and would be granted if the applicant demonstrates that compliance**

U.S. Army Corps of Engineers

Regional Condition 3

List of Corps Regional Conditions for All NWPs

- **3.6. Safe Passage Requirements for Culvert Placement**
  - The dimension, pattern, and profile of the stream above and below a pipe or culvert should not be modified by widening the stream channel or by reducing the depth of the stream in connection with the construction activity
  - The width, height, and gradient of a proposed opening should be such as to pass the average historical low flow and spring flow without adversely altering flow velocity
  - In the twenty (20) coastal counties, all pipe and culverts shall be buried at least one foot below normal bed elevation if placed in Public Trust Area of Environmental Concern (AEC) and /or Estuarine Waters AEC as designated by CAMA, and/or all streams appearing as blue lines on the USGS maps
  - All other counties: if pipe/culvert > 48 inches-buried one foot below the stream bed; if pipe/culvert < 48 inches-buried or placed on the stream bed as practicable to